

GRANDCHILDREN OF GENEVIEVE VICTOR.

[To accompany bill H. R. 599.]

DECEMBER 12, 1856.

Mr. K. MILLER, from the Committee on Revolutionary Pensions, made the following

REPORT.

The Committee on Revolutionary Pensions, to whom was referred the petition of Calvin K. Averill, administrator, &c., for the benefit of the grandchildren of Genevieve Victor, the widow of Lieutenant Felix Victor and Lieutenant Francis Martin, for the pension due to her on account of the services of said officers in the army of the United States in the revolutionary war, report :

That they have carefully investigated said claim; and it appears from the proofs that the said Genevieve, whose maiden name was Genevieve Boucher, was married to the said Lieutenant Martin at Berthier, in Canada, on the 15th day of February, 1762; that he joined Colonel Livingston's regiment of continentals at Berthier in November, 1775, on its march to Quebec, and was commissioned on the 18th December, 1776, after the retreat of the American army from Canada. He died in hospital at Fishkill, in the State of New York, in 1780. It further appears that the said Genevieve again married to Lieutenant Victor on the 11th of February, 1782, at Fishkill, who had been an officer (ensign) from November 1, 1777, appointed by order of Congress, but who was promoted to lieutenant before the close of the war, and served in General Hazen's regiment of continentals to the end of the war, and died at St. Antoine, in Canada, the 30th of October, 1820. In either case the service of the officer exceeded two years, and entitled the widow, as she was living, to the provisions of the pension law of July 4, 1836, from the 4th of March, 1831, to the 18th day of December, 1836, when she died.

She never applied, and was not in a situation to do so, by reason of sickness, old age, (97,) and derangement of mind, from the time the act passed till her death. In the meantime, she was assisted by her grandchildren (her children being dead) in her sickness, death, and burial, in expectation that the pittance Congress had awarded to her would be paid to her descendants for the extra care and attention bestowed on her which her pension superinduced, and which they were not able to spare from their own contracted means. But when the pension office was applied to for the arrears due to her, it was

denied on the ground that she died without issue, and it was not available in the hands of an administrator.

It is claimed by the petitioners that the pension due to her was a *vested right*, and she having had issue, the vested right at her death passed to her grandchildren, her legal representatives, as assets in the hands of administrators for their use, and they refer to 60 Litt., 293, and 2d Black. Com., 511, in support of their claim, and to Toller's Law of Executors, page 136, which makes it the first duty of administrators to pay the expenses of the funeral charges, &c.

Your committee do not think it necessary for them to pass on the validity of this claim. They think the case itself presents strong equities for allowance without regard to legal points. It was an act of Providence which prevented her from obtaining it, and as she would have transmitted it to her needy descendants had she been capable of taking it, it would be no more than justice should it take that direction now.

It further appears that she and her husband, Lieutenant Martin, sacrificed their all for the common cause; and but for their devotion to it, her descendants might have been in the enjoyment of a comfortable competency. But being influenced by the addresses and proclamations of Congress to the Canadians, under promises of protection and remuneration, Lieutenant Martin and his two sons, Francis and Joseph, joined the American army, for which act, on the retreat of the Americans from Canada, the British government confiscated his farm, destroyed his property, and exiled them from their home. The two sons served out the war, and received honorable discharge, and Lieutenant Martin died in the government hospital from disease contracted while on a perilous journey into Canada, by order of Major General Schuyler, in these words: "You may believe your family will be under my care in your absence, and if any ill luck shall happen to you in this dangerous journey that you are doing for the common cause, a like compensation will be allowed your wife as yourself; with this assurance be encouraged. * * * Farewell, Mr. Martin; good journey."

In view of the losses the family sustained in property and life, her devotion and example before her sons in the cause, and that those losses have never been compensated for, your committee have agreed to recommend the passage of a bill for the relief of the grandchildren, and they report a bill accordingly.